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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/684,403	10/04/2000	Tom Van Horn	MCTA-002/03US	2392

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[REDACTED] EXAMINER

THOMPSON JR, FOREST

[REDACTED] ART UNIT [REDACTED] PAPER NUMBER

3625

DATE MAILED: 09/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/684,403	VAN HORN ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Forest Thompson Jr.	3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 04 October 2000.

2a) This action is **FINAL**.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-42 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-42 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on 04 October 2000 is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.

4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

1. Claims 1-42 have been examined.

### ***Drawings***

2. New corrected drawings are required in this application because the drawings 2-6 are considered as draft, and drawings 7-9 contain imperfections in lines and figures. Applicant is advised to employ the services of a competent patent draftsperson outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1042 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pallakoff (U.S. Patent No. 6,269,343).

Claims 1, 9, 17, 25, 28, 31, 34, 37, 40: Pallakoff discloses:

(a) a system to define a seller's offers for a product for presentation to potential buyers (col. 2 line 52 – col. 3 line 17);

(b) a system to:

- receive and process buyer offers to buy a product (col. 3 lines 22-36); and
- transmit on-line group buying sale information for the product to potential buyers (fig. 2 [23, 24, 25, 26, 27]; fig. 3 [31, 32, 33]);
- display the aggregated sales of the featured product sales (fig. 2 [23, 24, 25, 26, 27]), which encompasses the display of a price representing the increasing value of the aggregated sales of the featured product sales.

Pallakoff does not specifically disclose the display of a value curve; however, Pallakoff does disclose displaying demand thresholds and associated prices (fig. 2 [24]), aggregate demand so far (fig. 2 [25]), and status message (fig. 2 [27]). These disclosures encompass the functionality for displaying a value curve for the featured product or service. Therefore, it would have been obvious to one skilled in the art at the

time the invention was made to modify the invention of Pallakoff to explicitly disclosing a value curve, as disclosed through the functionality of Pallakoff, for the motivation of carrying out an on-line group-buying sale for a featured product or service.

Claims 2, 4, 6, 7, 10, 12, 14, 15, 18, 20, 22, 23, 27, 30: define the on-line group-buying sale as a sale of a product or service where the price paid by each buyer is determined by the aggregate quantity sold to all buyers (col. 2 line 22 – col. 4 line 19), which encompasses the sale of a rebate for a product or service that lowers the individual buyer's price of a product or service purchased by a group of buyers. The rebate is equivalent to the price reduction in the price paid by each buyer as determined by the aggregate quantity of a product or service sold to all buyers.

Claims 3, 5, 8, 11, 13, 16, 19, 21, 24, 26, 29, 32, 33, 35, 36, 38, 39, 41: Pallakoff does not explicitly disclose defining the value curve for the featured item as representing an increasing value to the buyer. However, Palakoff does disclose displaying an increasing value, saving, or return on value for the buyer as more sales of the product or service are aggregated (fig. 2 [24, 25, 27]), through the functionality of displaying demand thresholds and associated prices (fig. 2 [24]), aggregate demand so far (fig. 2 [25]), and status message (fig. 2 [27]). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to modify the invention of Pallakoff to explicitly disclose defining the value curve for the featured item as representing an increasing value to the buyer (e.g., an increasing number of free calling

minutes, an increasing face value of a rebate, or an increasing rate of return on investment), as disclosed by Pallakoff, for the motivation of carrying out an on-line group-buying sale for a featured item.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Prior art includes:

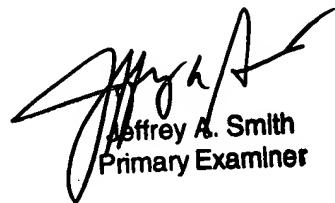
- Shkedy (U.S. Patent No. 6,260,024) discloses providing a global bilateral buyer-driven system for creating binding contracts by incorporating various methods of communication, commerce and security for the buyers and the sellers.; and
- Walker et al. (U.S. Patent No. 6,418,415) discloses an aggregate conditional purchase offer (CPO) management system for receiving and processing conditional purchase offers from buyers for one or more goods or services.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Forest Thompson Jr. whose telephone number is (703) 306-5449. The examiner can normally be reached on 6:30-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on (703) 308-1344. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

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FT  
09/12/2003



Jeffrey A. Smith  
Primary Examiner